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**UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO HEADQUARTERS**

UNITED STATES OF AMERICA,

Plaintiff,

v.

NATURE'S FARM PRODUCTS, INC.,  
 DENNIS CHOI, and PETER PIZZO,

Defendants.

No. C 04-2068 VRW

**PROPOSED  
 CONFIDENTIALITY ORDER**

Subject to the Court's approval, and pursuant to the provisions of Federal Rule of Civil Procedure 26(c), the parties through their undersigned counsel of record hereby agree and stipulate to the following Confidentiality Order, for the purpose of assuring the confidentiality of certain information that may be disclosed by the parties in the course of discovery proceedings.

1. As used in this Confidentiality Order, the term "Confidential Information" includes any information that is disclosed by a party to the opposing party or its counsel in the course of discovery proceedings in this action and which at or before the time of disclosure has been designated as "confidential" by the party disclosing it. Information contained in an answer to

any question asked during an oral deposition may be so designated by (i) a statement made on the record during the course of the deposition and on the same day that the answer is given or (ii) by giving written notice to counsel for the opposing party within 15 days of receipt of the deposition transcript.

2. Confidential Information disclosed to an opposing party or its counsel during the course of discovery proceedings in this action:

- a. Shall be used by the opposing party and counsel only for purposes of this action.
- b. Shall not be published to the public in any form by the opposing party or counsel, nor used by the opposing party for any business or commercial purposes.
- c. Shall be disclosed by the opposing party or its counsel only to the following persons:
  - (1) The opposing party and the attorneys of record for the opposing party;
  - (2) Secretarial, clerical and paralegal or student personnel employed full-time or part-time by attorneys or a law firm that represents the opposing party;
  - (3) Court reporters or stenographers engaged to record deposition testimony, and their employees;
  - (4) Such other persons as hereafter may be authorized by the Court upon motion of either party.

3. A copy of this Confidentiality Order shall be delivered to counsel for each of the named parties and to each person within categories (2) and (3) of paragraph 2(c) above to whom a disclosure of Confidential Information is made, at or before the time of disclosure, by the party making the disclosure or by its counsel. The provisions of this Confidentiality Order shall be binding upon each such person to whom disclosure is made.

4. The provisions of this Confidentiality Order shall not be construed as preventing:

- a. Any disclosure of Confidential Information by the party that designated the information as such;
- b. Any disclosure of Confidential Information to any judge, magistrate, or employee of this Court for purposes of this action;

c. Any disclosure of Confidential Information by the United States Attorney's Office for the Southern District of New York or the Northern District of California for the purpose of fulfilling its law enforcement responsibilities;

5. Any party planning to file with the Court any pleadings, motions or other papers disclosing Confidential Information provided by another party shall give no less than seven calendar days prior notice to the party that provided the Confidential Information identifying the Confidential Information that would be disclosed. The party that provided the Confidential Information may make an application to the Court requesting that the papers or confidential portions thereof be filed under seal. If such an application is made, the papers in question shall not be filed until the Court renders a decision on that application. In addition, a party planning to file with the Court any pleadings, motions or other papers disclosing its own Confidential Information may also make an application to the Court requesting that papers or confidential portions thereof be filed under seal.

6. This Confidentiality Order shall not: (a) operate as an admission by any party that any particular discovery material contains or reflects trade secrets, proprietary or commercial information or other confidential matter; (b) prejudice in any way the right of a party to object to the production of documents it considers not subject to discovery; or (c) prejudice in any way the right of a party to seek a Court determination (i) whether particular discovery material should be produced or (ii) if produced, whether such material should be subject to the terms of this Confidentiality Order; or (d) prejudice in any way the right of a party to apply to the Court for a further protective order or a modification of this Confidentiality Order.

7. Nothing in this Confidentiality Order shall preclude a party from offering Confidential Information into evidence at the trial of this action.

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1 The parties consent to entry of this Confidentiality Order.

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3 Dated: August \_\_\_, 2005

KEVIN V. RYAN  
United States Attorney

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5 By: \_\_\_\_\_/s/

SARA WINSLOW, AUSA  
DAVID J. KENNEDY, SAUSA  
Attorneys for Plaintiff, United States of America

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7  
8 Dated: August \_\_\_, 2005

FINLEY & DEATON


9  
10 By: \_\_\_\_\_/s/

STEVEN C. FINLEY, ESQ.  
Attorneys for Defendants  
Nature's Farm Products, Inc., Dennis Choi  
Peter Pizzo

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15 **~~PROPOSED~~ ORDER**

16 The Confidentiality Order is hereby adopted by the Court and the parties are ordered to  
17 comply with this Order.

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20 Dated: \_\_\_\_\_

  
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VAUGHN R. WALKER  
United States District Judge